

1 Tanya E. Moore, SBN 206683  
2 MOORE LAW FIRM, P.C.  
3 300 South First Street, Suite 342  
4 San Jose, California 95113  
5 Telephone (408) 298-2000  
6 Facsimile (408) 298-6046  
7 E-mail: service@moorelawfirm.com

8 Attorney for Plaintiff  
9 Darren Gilbert

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11 **UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**

13 DARREN GILBERT, ) No. 2:21-cv-01984-WBS-KJN  
14 Plaintiff, )  
15 vs. )  
16 7-ELEVEN, INC., et al., )  
17 Defendants. )  
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Plaintiff Darren Gilbert (“Plaintiff”) and Defendants 7-Eleven, Inc., Jatinder Brar dba 7-Eleven #23615, Jatinder Singh Brar dba 7-Eleven #23615, I-Chung Ho, Trustee of the Ho Living Trust dated October 26, 1991, Min-Ching Ho, Trustee of the Ho Living Trust dated October 26, 1991, and Kathleen A. Ho (collectively “Defendants,” and together with Plaintiff, “the Parties”), stipulate as follows:

1. A Final Pretrial Order was entered in this matter on July 17, 2023 (Dkt. 28) and the matter is currently set for a jury trial beginning on September 26, 2023, with several pre-trial deadlines expiring on September 5, 2023 including the deadlines to lodge and/or file (1) a joint statement of the case to be read to the jury; (2) Plaintiff’s proposed jury instructions and form of verdict; (3) designation of all answers to interrogatories and portions of depositions

STIPULATION TO MODIFY SCHEDULING ORDER;  
ORDER

1 intended to be offered or read into evidence; and (4) a written motion by Plaintiff's counsel to  
2 use Plaintiff's deposition in lieu of live testimony due to Plaintiff's disabilities.

3       2. Plaintiff has requested that his treating physician provide a written opinion  
4 regarding Plaintiff's ability to provide testimony at trial (i.e., ability to speak in a manner that  
5 can be understood by the jury, given a recent stroke that substantially affected his speech) and  
6 to personally attend trial. Plaintiff had expected to receive this opinion today, September 1, but  
7 has learned that the medical practice office manager whom his counsel has been coordinating  
8 with is out of the office until Tuesday, September 5, 2023. As a result, Plaintiff is uncertain  
9 whether the opinion will be received in time to file the required motions on September 5.

10       3. The Parties have met and conferred regarding whether Defendants will (1)  
11 stipulate to using Plaintiff's deposition in lieu of personal testimony; (2) stipulate to Plaintiff  
12 appearing at trial by Zoom in lieu of personal appearance; and/or (3) waive jury trial  
13 altogether. Defendants are considering these options, but have requested to first review the  
14 opinion from Plaintiff's physician which, again, has not yet been received.

15       4. Because the pre-trial documents noted above, which are due on September 5,  
16 2023, will be substantially determined by whether Plaintiff's physician deems him capable of  
17 testifying at trial and will be wholly unnecessary in the event Defendants waive jury trial, the  
18 Parties hereby stipulate and respectfully request that the deadline for such documents be  
19 extended to September 8, 2023, to allow time to receive the opinion from Plaintiff's physician  
20 and for the Parties to further meet and confer. The deadline for Plaintiff's proposed findings of  
21 fact and conclusions of law, which is also due on September 5, 2023, is not affected by this  
22 stipulation as that document does not rely upon the physician's opinion.

23  
24 **IT IS SO STIPULATED.**

25 Dated: September 1, 2023

MOORE LAW FIRM, P.C.

26  
27 /s/ Tanya E. Moore  
28 Tanya E. Moore  
Attorney for Plaintiff,  
Darren Gilbert

STIPULATION TO MODIFY SCHEDULING ORDER;  
ORDER

1 Dated: September 1, 2023

CALL & JENSEN  
A Professional Corporation

3 /s/ Michael S. Orr

4 Julie R. Trotter  
5 Michael S. Orr  
6 Attorneys for Defendants,  
7 7-Eleven, Inc., Jatinder Brar dba 7-Eleven #23615,  
8 Jatinder Singh Brar dba 7-Eleven #23615, I-Chung  
9 Ho, Trustee of the Ho Living Trust dated October  
10 26, 1991, Min-Ching Ho, Trustee of the Ho Living  
11 Trust dated October 26, 1991, and Kathleen A. Ho

12 **ORDER**

13 The Parties having so stipulated and good cause appearing,

14 **IT IS HEREBY ORDERED** that the deadlines for (1) a joint statement of the case to  
15 be read to the jury; (2) Plaintiff's proposed jury instructions and form of verdict; (3)  
16 designation of all answers to interrogatories and portions of depositions intended to be offered  
17 or read into evidence; and (4) a written motion by Plaintiff's counsel to use Plaintiff's  
18 deposition in lieu of live testimony due to Plaintiff's disabilities, which are presently due on  
19 September 5, 2023 pursuant to the Final Pretrial Order (Dkt. 28), be extended to September 8,  
20 2023.

21 **IT IS SO ORDERED.**

22 Dated: September 1, 2023



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WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE

STIPULATION TO MODIFY SCHEDULING ORDER;  
ORDER